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SUPREME COURT, U.S.
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In the

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1969

No. 957

RESPONSE AND BRIEF OF RESPONDENT IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

SUBJECT INDEX

	PAGE
Questions Presented	1
Statement of the Case	2
Petitioner's Pleadings Below	4
State Court's Rulings	5
Petitioner's Offer of Proof	7
Petitioner's Contentions and Respondent's Reply Thereto	8
Legal Authorities	14
I. No Rights of This Petitioner Protected Under the Fourteenth Amendment Were Violated Through the Oklahoma Supreme Court's Denial of the Appointment of a Referee for the Purposes Indicated	14
A. Petitioner's authorities are not pertinent	14
B. What type of procedure is necessary?	15
1. General Rules	15
2. Procedure Where Road Location Involved	17
3. Oklahoma's Procedure on Bond Validations Is Both Reasonable and Established and Does Not Deny Due Process	19
II. This Petitioner Does Not Have Sufficient Legal Standing to Assert a Violation of the Due Process Clause and Obtain the Relief Here Sought of the United States Supreme Court	23

INDEX CONTINUED

PAGE

A. Petitioner has only a negligible interest without justiciable standing or directness ... 23

B. Petitioner cannot complain of a ruling granting relief he sought ... 25

C. This petitioner is estopped to complain ... 26

D. Certiorari does not lie to review evidence only, or for delay ... 26

Conclusion ... 27

AUTHORITIES

CASES:

Alexander v. Cosden Pipe Line Co., 290 U.S. 484, 54 S. Ct. 292, 78 L. Ed. 452 ... 25

Anderson National Bank v. Luckett, 321 U.S. 233, 64 S. Ct. 599, 88 L. Ed. 692 ... 15-16, 22

Arizona v. California, 283 U.S. 423, 51 S. Ct. 522, 75 L. Ed. 1154 ... 25

Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 56 S. Ct. 466, 80 L. Ed. 688 ... 25

Betts v. Brady, 316 U.S. 455, 62 S. Ct. 1252, 86 L. Ed. 1595 ... 17

Brinkerhoff-Faris Trust & Savings Co. v. Hill, 281 U.S. 673, 50 S. Ct. 451, 74 L. Ed. 1107 ... 14-15

Brown v. Hughes, 136 F. Supp. 55 ... 16

Brutsche, et al. v. Incorporated Town of Coon Rapids, 223 Iowa 487, 272 N.W. 624 ... 21

City of Elizabeth v. New Jersey Turnpike Authority, 72 A.2d 399 ... 19

Cohen v. Beneficial Industrial Corporation, 337 U.S. 541, 69 S. Ct. 1221, 93 L. Ed. 1528 ... 16

INDEX CONTINUED

PAGE

Columbus and G. Ry. Co., et al. v. Miller, 283 U.S. 96, 51 S. Ct. 392, 75 L. Ed. 861 25

Combs v. Illinois State Toll Highway Commission, 128 F. Supp. 305 18

Conway, In re, 121 F.2d 972, 3rd Cir., certiorari denied, 62 S. Ct. 361 26

East Coast Lumber Terminal v. Town of Babylon, 174 F.2d 106 15

Fay v. People of the State of New York, 332 U.S. 261, 67 S. Ct. 1613, 92 L. Ed. 367 ..... 16, 17

Federal Communications Commission v. WJR, the Good Will Station, 337 U.S. 265, 69 S. Ct. 1097, 93 L. Ed. 1353 17

Gange Lumber Co. v. Rowley, 326 U.S. 295, 66 S. Ct. 125, 90 L. Ed. 85 24-25

General Talking Pictures Corporation v. Western Electric Co., Inc., 304 U.S. 175, 58 S. Ct. 849, 82 L. Ed. 1273 26

Grand River Dam Authority, Petition of, 320 P.2d 706 20

Green County v. Thomas, 211 U.S. 598, 29 S. Ct. 168, 53 L. Ed. 343 26

Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 123, 71 S. Ct. 624, 95 L. Ed. 817 23-24

Mueller v. Powell, 203 F.2d 797 ..... 15, 27

Oklahoma Turnpike Authority, Application of, 221 P.2d 795 19

Owens v. Corporation Commission of the State of Oklahoma, 41 F.2d 779 26

Owens v. Oklahoma Turnpike Authority, 283 P.2d 827, appeal dismissed 350 U.S. 893, 76 S. Ct. 155, 100 L. Ed. 785, rehearing denied 350 U.S. 943, 76 S. Ct. 309, 100 L. Ed. 823 18

INDEX CONTINUED

PAGE

Palko v. State of Connecticut, 302 U.S. 319, 58 S. Ct. 149, 82 L. Ed. 288 17

Pierce Oil Corporation v. Phoenix Refining Co., 259 U.S. 125, 42 S. Ct. 440, 66 L. Ed. 855 26

Pryor v. Western Paving Company, 74 Okla. 308, 184 Pac. 88 20

Ralston v. Cox, 123 F.2d 196, certiorari denied, 62 S. Ct. 448 26

Rindge Co., et al. v. Los Angeles County, 262 U.S. 700, 43 S. Ct. 689, 67 L. Ed. 1189 ..... 12, 17

Roberts v. City of New York, 295 U.S. 264, 55 S. Ct. 689, 79 L. Ed. 1429 25

Santiago v. People of Porto Rico, 154 F.2d 811 15

Smolowe v. Delendo Corporation, 46 F. Supp. 758 15

Speiser v. Randall, 357 U.S. 513, 78 S. Ct. 1332, 2 L. Ed.2d 1460 14

Swanson v. Bates, 170 F.2d 648 15

Virginian Ry. Co. v. System Federation No. 40, et al., 300 U.S. 515, 57 S. Ct. 592, 81 L. Ed. 789 15

Wall, Ex parte, 107 U.S. 265, 2 S. Ct. 569, 27 L. Ed. 552 16

Young v. Anderson, 160 F.2d 225 26

STATUTES:

69 O.S. 1951 (and 1959 Supp.), Secs. 651-683 2

69 O.S. 1959 Supp., Sec. 659 10

69 O.S. 1959 Supp., Sec. 668 ..... 3, 22

69 O.S. 1959 Supp., Sec. 672 4

MISCELLANEOUS:

Cooley's Constitutional Limitations, 8th Ed., p. 68 16

Rules of the Supreme Court of the State of Oklahoma, Rule 2f(1) 4

In the
Supreme Court of the United States
OCTOBER TERM, 1960.

No. 957

BILL HOOVER,
Petitioner,

VERSUS

OKLAHOMA TURNPIKE AUTHORITY,
Respondent.

RESPONSE AND BRIEF OF RESPONDENT IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

QUESTIONS PRESENTED

1. Whether any rights of this petitioner protected under the Fourteenth Amendment have actually been violated through the Oklahoma Supreme Court's denial of the appointment of a Referee for the purposes indicated.

2. Whether this petitioner has sufficient legal standing to assert a violation of the Due Process Clause and obtain the relief here sought of the United States Supreme Court.

STATEMENT OF THE CASE

The State of Oklahoma authorized the construction of two additional turnpikes by the Oklahoma Turnpike Authority.

Petitioner as a member of said Authority on September 30, 1960, cast an "aye" vote on a resolution accepting and approving engineering and traffic reports, determining location and ratifying action theretofore taken on the Southwestern Turnpike; voted "no" on a like resolution pertaining to the Eastern Turnpike; and then voted "aye" on a resolution authorizing issuance of bonds for both turnpikes and execution and delivery of the Trust Agreement securing said bonds. (Exhibits L and M, Appendix hereafter designated R.A., vi-xxix, are Authority minutes containing said resolutions and pertinent excerpts from the Trust Agreement all of which were included in Instrument 1 of the record, being the Authority's Application to the Oklahoma Supreme Court.)

Thereafter, while still a member of the Authority, petitioner filed in the Oklahoma Supreme Court his protest to the said Application. (Exhibit E, lviii-lxvii, Appendix II.)

The Oklahoma Turnpike Law is found at 69 O.S. 1951 (and 1959 Supp.), Sections 651-683.

The Supreme Court of Oklahoma assumed original jurisdiction as provided by Sections 668 and 672.

> "668. Judicial determination of valiidty of bonds and trust fund.—The Oklahoma Turnpike Authority is authorized in its discretion to file an application with the Supreme Court of Oklahoma for the approval of

any bonds to be issued hereunder, and exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine each such application. It shall be the duty of the court to give such applications precedence over the other business of the court and to consider and pass upon the applications and any protests which may be filed thereto as speedily as possible. Notice of the hearing on each application shall be given by a notice published in a newspaper of general circulation in the State that on a day named the Authority will ask the court to hear its application and approve the bonds. Such notice shall inform all persons interested that they may file protests against the issuance of the bonds and be present at the hearing and contest the legality thereof. Such notice shall be published one time not less than ten (10) days prior to the date named for the hearing and the hearing may be adjourned from time to time in the discretion of the court. If the court shall be satisfied that the bonds have been properly authorized in accordance with this Act and that when issued, they will constitute valid obligations in accordance with their terms, the court shall render its written opinion approving the bonds and shall fix the time within which a petition for rehearing may be filed. The decision of the court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the Authority, its officers and agents, and thereafter the bonds so approved and the revenues pledged to their payment shall be incontestable in any court in the State of Oklahoma.

"Immediately upon the passage and approval of this Act, the Oklahoma Turnpike Authority shall file an application with the Supreme Court, under the procedure set out above, for a determination of the validity of such Trust Fund and the earmarking of revenues thereto, the validity of a pledge thereof by the Au-

thority as provided in this Act, and any other questions as to the constitutionality or validity of this Act that may be brought before the Supreme Court, and exclusive, original jurisdiction is hereby conferred upon the Supreme Court to hear and determine such application. No apportionments provided for in this Act shall be made nor shall such Trust Fund be established or expenses against the same be incurred until such application has been passed upon and approved by the Supreme Court."

"672. Liberal Construction.—This Act, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes thereof."

Thus the procedure of determining validity of turnpike bonds was established by the Legislature. The only rights granted to protestants are to "file protests against the issuance of the bonds and be present at the hearing and contest the legality thereof."

PETITIONER'S PLEADINGS BELOW

Petitioner filed certain instruments in the Supreme Court of the State of Oklahoma. The date of filing, exhibit number and page number in his Appendix II, and the instrument number filed pursuant to Rule 21 (1) of said instruments are as follows:

1. Protest, Objection and Contest to the Application of Oklahoma Turnpike Authority for Approval of Issuance of Turnpike Revenue Bonds. (October 13, 1960, Exhibit E, lviii-lxvii, Number 5.)

2. Application For Reference to a Referee for Taking of Evidence and Testimony Upon Issues of Fact.

(October 17, 1960, Exhibit F, lxviii-lxix, Number 7.) (The affidavit referred to in paragraph three thereof was omitted from his Appendix II and is included in the R.A., ii-vi (marked Exhibit K.)

3. Motion to Vacate and Set Aside Order Denying Application For Reference; And For Rehearing and Reconsideration Thereof. (October 21, 1960, Exhibit H, lxxi-lxxiii, Number 10.)

4. Offer of Exhibits. (November 14, 1960, Number 13.)

5. Petition for Rehearing. (January 31, 1961, Exhibit J, lxxvi-lxxx, Number 19.)

In addition to the above, petitioner's applications for ral argument were twice honored by the Supreme Court f the State of Oklahoma and over five hours of argument as heard by the Court *en banc* on these two occasions.

STATE COURT'S RULINGS

The Supreme Court of Oklahoma ruled on Petitioner's leadings as follows:

1. His Protest was sustained on two major points by the court's opinion (Exhibit A, i-xlviii, Appendix II);

2. The Application for Reference was overruled by Order of October 17, 1960 (Exhibit G, Appendix II, page lxx, Number 8).

3. The Motion to Vacate and Set Aside the Order Denying Application for Reference was overruled by Order of October 31, 1960 (Exhibit I, lxxiv-lxxv, Appendix II, Number 12).

Therein the court stated that it had given careful attention to protestant's original motion, his Motion to Vacate and his Motion for Rehearing and Reconsideration and prayer for further oral argument and then said:

"The court is of the opinion that the instruments, agreements, and contracts executed in connection with the proposed issuance of Turnpike Revenue Bonds amply set forth all the facts that will be necessary for a disposition of the questions presented, but if they do not then this Court may upon its own Motion direct a Referee of this Court to take testimony upon notice to the parties and protestants."

4. Petitioner's Petition for Rehearing was overruled by Order of the Court dated February 13, 1961 (Exhibit B, xlix, Appendix II, Number 22). There the Court stated in part:

"And having observed in said pleadings some reference to alleged issues of fact upon which this court should have heard testimony and received evidence, or by reason of which issues of fact the court should have referred said cause in its entirety to a Referee for hearing and evidence;

"The Court has again examined the pleadings and the briefs of the parties and again considered the oral argument of the parties and upon said examination and consideration the court does not observe any material issue of fact in this case which could properly have been the subject of evidence or reference herein;

"And since the petitions for rehearing do not specifically set out any such items relied upon as issues of fact, and for the further reasons above shown, the court finds that there are not and were not issues of fact to be determined herein between the applicant and any of the protestants or parties."

5. Order, filed March 1, 1961 (Exhibit C, Appendix II, li-lii, Number 26), denying the Motion for Rehearing and Motion to Vacate which apparently the Court considered to still be open by its Order of October 31st wherein it stated that if it found factual questions necessitating a referral it would refer. Here the Court stated in part:

"We carefully considered Protestants motion prior to and in connection with our opinion on the merits in this case and on consideration of petition for rehearing concluded that there were no decisive and controlling issues of fact mentioned or presented which would make it necessary to refer the case to a Referee for the purpose of taking evidence and testimony."

PETITIONER'S OFFER OF PROOF

It is to be noted that the affidavit attached to Exhibit F (R.A., ii-vi, Exhibit K) constitutes in effect an offer of proof as does his Offer of Exhibits. The other pleadings of petitioner do not allege any other facts. Obviously petitioner should be limited generally to his allegations contained therein.

Respondent, Oklahoma Turnpike Authority, agreed to the admission of the exhibits and in effect demurred to the alleged facts by including the following in its Reply Brief, as well as reiterating the same at oral argument:

"* * * None of these facts are material to the issues before the Court (and are admitted only for the sake of argument accordingly by the applicant). If there are no controverted facts proposed to the Court or if there are no material facts proposed, there is certainly no

basis for a reference, nor for an allegation that anyone has been denied their 'day in court.' (It should be emphasized that applicant denies all conclusions of fact or law drawn by adverse parties from the facts thus admitted.)

"In a most unusual method of proceeding, protestant Hoover has served an 'Offer of Exhibits' after all pleading time has elapsed and even after he had filed his answer brief out of time. These Exhibits are those referred to by the various adverse parties in their pleadings. Applicant is agreeable to their inclusion in the record. By including them in the record the Application For Reference and the Application to Show Cause are stripped of fact and nothing remains but a lot of irrelevant and immaterial opinion and improper conclusions. (It is interesting to note that listed Exhibit No. 7 does not list the more recent Quarterly Report of September 30, 1960.) Certainly they are the best evidence of their contents. With their admission, no evidence is necessary even to prove immaterial and irrelevant contentions of opposition."

PETITIONER'S CONTENTIONS AND RESPONDENT'S REPLY THERETO

It is obvious from its orders that the Supreme Court of the State of Oklahoma exhaustively studied the question as to whether a reference or evidence was needed on any material question. Likewise, having sustained two of petitioner's principal objections, it was not an unfriendly court.

But petitioner alleges in the writ of *certiorari* that there are three factual issues on which a referee should have acted.

1. The finding of the Oklahoma Turnpike Authority that the routes in question were feasible and economically sound.

A. Petitioner himself, as a member of the Authority, voted for the resolution finding the Southwestern Route feasible and economically sound (R.A., xiii), opposed a resolution finding the Eastern Route feasible and economically sound, but after he was overridden on this point he again voted for the joint resolution authorizing the issuance of bonds for the entire project including the Eastern Route and authorizing the execution and delivery of the Trust Agreement securing said bonds which recites both routes are feasible and economically sound (Exhibit L, R.A., xxiv). Since petitioner participated in these official actions the Oklahoma court was justified in refusing his request for the appointment of a referee to challenge their legality.

B. The overwhelming weight of authority in this Court, Oklahoma and elsewhere is that the action of a duly constituted board in selecting a road location will not be altered by a court.

C. Parenthetically 69 O.S. 1959 Supp., Section 655 (e), while first authorizing the Authority to construct turnpike projects on such routes as it shall determine to be "feasible and economically sound" in effect then determines the feasible and economically sound routes by limiting the Authority "until specifically authorized by the Legislature

* * * to construct and operate toll turnpikes only at the following locations" and thereupon authorizes the Southwestern and Eastern Routes.

D. To allow petitioner's evidence would be a useless act. In its opinion (Appendix II, xii-xiii) the State Court interprets the requirement of this part of the statute by ruling out "timid caution" since the consequence is only inability to presently sell the bonds. Obviously there is one acid test of the feasibility of toll turnpikes and that is whether their bonds will actually sell. An error in the Authority's determination of feasibility would not damage the State, since such bonds would not sell.

2. Next, petitioner complains that a referee should have heard evidence that the action of the respondent Authority relating to the combining of the two turnpike projects was not in compliance with the statute; and in fact there had been no lawful official action whatever in that regard. 69 O.S. 1959 Supp., Section 659 (Appendix I, page iii) authorizes the combining of projects.

The Resolution (Exhibit L, R.A., xvii-xxiv) which received the affirmative vote of petitioner, was the Authority's action in conformity with said statute. The same clearly refers to the issuance of $90,000,000.00 of Turnpike Revenue Bonds consisting of $59,000,000.00 for the Southwestern Turnpike project and $31,000,000.00 for the Eastern Turnpike project and authorized the execution and delivery of a Trust Agreement securing said bonds. Said Trust Agreement (Exhibit M, R.A., xxv-xxix) concisely and clearly au-

thorizes the combining of the two projects. Thus whether the Resolution and Trust Agreement complied with the statute and whether it constituted a lawful and official action presented only a legal question.

3. The petition's final contention is that a referee should have heard evidence that the road projects to be constructed by the State Highway Department of Oklahoma were to be used only by turnpike patrons and that the federal government would not participate in the building of the roads.

Petitioner's Protest, Objection and Contest to the Application of Oklahoma Turnpike Authority for Approval of Issuance of Turnpike Revenue Bonds (Exhibit E, pages lxii-lxiv, Appendix II) raised certain questions including:

"Questions (c) and (d). The agreements between the Authority and the State Highway Department, referred to in the Application, relating to the construction by the Highway Department of portions of the respective turnpikes, are unconstitutional, illegal, null and void; and cannot be enforced by the Authority, the trustee or any bond holder, for each of the following reasons: * * * (7) All or portions of the roads referred to in the contracts to be built by the Oklahoma Highway Commission constitute access, roads, interchanges or lead roads, as defined by law, and specifically, 69 O.S. (1959), Section 655, which are required to be built entirely by funds furnished by the Authority."

The Oklahoma Supreme Court's opinion states, in part (page xxx, Appendix II):

"The agreements therefore must be considered, at most, as a moral obligation and not a legal obligation to carry out the terms thereof."

Thus, the court granted the relief requested in the protest to hold the said contracts unenforceable. Having obtained the relief sought, petitioner should have no standing to complain that he should have been able to put on evidence including "presentation of testimony of numerous witnesses" which "presentation of evidence will consume considerable time" (Application for Reference to a Referee for Taking of Evidence and Testimony upon Issues of Fact, Exhibit F, page lxix, Appendix H).

The court interpreted "lead roads or access roads" to mean roads to be used exclusively by turnpike patrons, and does not include state highways.

Exhibit N (R.A., xxxi-xxxiii) is a map of each proposed turnpike and was attached to Instrument Number 1 of the record as a portion of Exhibits B and C thereof. Under the state court's interpretation of the statute, the most serious contention petitioner could make is that all the highway projects would not immediately connect at each end with existing highways. It is obvious that the entire highway system cannot be constructed simultaneously (*Rindge Co., et al.* v. *Los Angeles County*, 262 U.S. 700, 43 S. Ct. 689, 67 L. Ed. 1189).

Finally in conjunction with this last point, petitioner would endeavor to show the Federal Government had not agreed to participate in the projects to be constructed by the highway department, but protestant in his Affidavit (Exhibit K, R.A., iv) states in part:

"No funds are committed by or on behalf of the United States until final project approval, generally secured shortly before actual letting of contracts. Approval is not given unless there remains a sufficient amount in the State's allocation of matching Federal funds to cover the Federal share of the project."

Also said affidavit further pointed out that part of the projects were only in the planning stage. The affidavit further states "most of the projects qualify for only fifty per cent Federal participation, so that approximately half of the construction cost will have to be paid by the State."

Respondent has never questioned the obvious fact that the Federal Government had not committed funds on each project or that its approval must be in conformity with law, but would further emphasize the obvious, that even a project for which Federal approval is withheld can subsequently be approved.

Petitioner alleges a remote and conjectural injury as a result of thi alleged "arbitrary exercise of power" by the Supreme Court of Oklahoma, to-wit:

"Ultimately the toll roads will belong to the citizens of Oklahoma. A citizen of the State is directly concerned about the feasibility and economic soundness of a toll road project, since state funds and revenues most likely will have to be used to support an economically unsound toll road project. The access roads proposed to be built by the State Highway Department must be constructed out of public tax revenues" (page 22 Petition).

So his injury is of a "most likely" nature on one count, and alleges as the balance of his injury that public roads should not be built at the proposed locations with public

funds. Neither constitutes such injury as this Honorable Court has normally recognized as justiciable!

LEGAL AUTHORITIES

I. No Rights of This Petitioner Protected Under the Fourteenth Amendment Were Violated Through the Oklahoma Supreme Court's Denial of the Appointment of a Referee for the Purposes Indicated.

A. *Petitioner's authorities are not pertinent.*

Petitioner cites authorities holding that under the Due Process Clause of the Fourteenth Amendment a fair and open hearing is essential to a fair trial. Such authorities are largely concerned with criminal actions or court trials involving adversaries in the ordinary sense with opposing parties having substantive rights directly affected by the trial. For example he cites the case of *Speiser* v. *Randall*, 357 U.S. 513, 525, 78 S. Ct. 1332, 1341, 2 L. Ed.2d 1460, which states:

> "* * * The underlying rationale of these cases is that where a person is to suffer a penalty for a crime he is entitled to greater procedural safeguards than when only the amount of his tax liability is at issue * * *".

Also the case of *Brinkerhoff-Faris Trust & Savings Co.* v. *Hill*, 281 U.S. 673, 50 S. Ct. 451, 454, 74 L. Ed. 1107, relied on by petitioner, states that:

> "* * * A state may not deprive a person of all existing remedies for the enforcement of a right *which the state has no power to destroy*, unless there is or was

afforded to him some real opportunity to protect it * * *" (Emphasis supplied).

The proceedings challenged in the petition are not of such nature. The Supreme Court of Oklahoma had before it a special type of proceeding, entirely statutory in nature, involving the legality of the financing of a public improvement by an instrumentality of the State of Oklahoma through the issuance of revenue bonds payable from tolls or other revenue. The improvement did not involve the levying of any special assessments based upon special benefits. No vested rights of the petitioner were thereby specifically or adversely affected. Petitioner acts only as a representative of the citizens of Oklahoma (Petition, p. 22).

B. ***What type of procedure is necessary?***

1. General Rules

The test of due process is essentially a test of reasonableness. (*Virginian Ry. Co.* v. *System Federation No. 40, et al.*, 300 U.S. 515, 558, 57 S. Ct. 592, 604, 81 L. Ed. 789; *Santiago* v. *People of Porto Rico*, 154 F.2d 811, 813; *Mueller* v. *Powell*, 203 F.2d 797, 800; *Swanson* v. *Bates*, 170 F.2d 648; *East Coast Lumber Terminal* v. *Town of Babylon*, 174 F.2d 106, 111; *Smolowe* v. *Delendo Corporation*, 46 F. Supp. 758, 765).

And the test was stated in *Anderson National Bank* v. *Luckett*, 321 U.S. 233, 246, 64 S. Ct. 599, 606, 88 L. Ed. 692:

> "What is due process in a procedure affecting property interests must be determined by taking into account the purpose of the procedure and its effect upon

the rights asserted and all other circumstances which may render the proceedings appropriate to the nature of the case * * *" (Cases cited).

This Honorable Court held in *Ex parte Wall,* 107 U.S. 265, 289, 2 S. Ct. 569, 589, 27 L. Ed. 552:

"* * * In all cases that kind of procedure is due process of law which is suitable and proper to the nature of the case and sanctioned by the established customs and usages of the court * * *."

And in *Fay* v. *People of the State of New York, infra,* at 332 U.S. 261, 295, 67 S. Ct. 1613, 1631, 92 L. Ed. 367:

"We adhere to this policy of self-restraint and will not use this great centralizing Amendment to standardize administration of justice and stagnate local variations in practice."

In *Cohen* v. *Beneficial Industrial Corporation,* 337 U.S. 541, 552, 69 S. Ct. 1221, 1228, 93 L. Ed. 1528, it was held that a state may set the terms on which it will permit litigation in its courts.

Brown v. *Hughes,* 136 F. Supp. 55, 63, held:

"The due process clause of the Fourteenth Amendment does not control forms of procedure in state courts or regulate practice therein."

Cooley's Constitutional Limitations, 8th Ed., p. 68, states:

"So far as the Federal Constitution is concerned, it is within the acknowledged power of the Legislature of a state to prescribe the evidence which shall be received and the effect of that evidence in the courts of its own government."

Even in certain criminal cases a state isn't obligated to furnish an accused counsel who is unable to obtain counsel. (*Betts* v. *Brady*, 316 U.S. 455, 62 S. Ct. 1252, 86 L. Ed. 1595).

In *Federal Communications Commission* v. *WJR, the Good Will Station*, 337 U.S. 265, 69 S. Ct. 1097, 1106, 93 L. Ed. 1353, the right to oral argument was denied even though substantial questions of law are raised. The Court stated:

> "* * * Congress was mindful not only of the ends of justice but also the proper dispatch of the Commission's business, a matter not unrelated to achieving the ends of justice, and left largely to its judgment the determination of the manner of conducting its business which would most fairly and reasonably accommodate those ends * * *."

A state may modify or abolish jury trial altogether. (*Palko* v. *State of Connecticut*, 302 U.S. 319, 324, 58 S. Ct. 149, 151, 82 L. Ed. 288, and cases there cited; *Fay* v. *People of the State of New York*, 332 U.S. 261, 288, 67 S. Ct. 1613, 1627, 91 L. Ed. 2043, *Re. Den.*, 332 U.S. 784, 68 S. Ct. 27, 92 L. Ed. 367).

2. Procedure Where Road Location Involved

This and other courts have held that states may establish the procedure whereby the routing of a road is to be questioned or may deny the right to allow evidence or object as to routing. In *Rindge Co., et al.* v. *Los Angeles County*, 262 U.S. 700, 43 S. Ct. 689, 67 L. Ed. 1186, there was a public taking of land for a road that went nowhere except on one ranch. The contention was that the highway

was a highway in name only, but this Honorable Court held it would not interfere with state procedure in establishing highway routings.

Also the Oklahoma Supreme Court in a case appealed to this Court held in *Owens* v. *Oklahoma Turnpike Authority*, 283 P.2d 827, *appeal dismissed* 350 U.S. 893, 76 S. Ct. 155, 100 L. Ed. 785, *rehearing denied* 350 U.S. 943, 76 S. Ct. 300, 100 L. Ed. 823, at page 830:

> "They, in fact, asked the trial court to require plaintiff to change the route of the turnpike to one selected by defendants. The trial court properly refused such request and excluded the evidence offered by defendants pertaining to the availability and desirability of a route other than the one selected by the Turnpike Authority:
>
> "* * * Where the Oklahoma Turnpike Authority has selected and designated a route for the construction of a turnpike lawfully authorized to be built, the courts of this state will not inquire into the matter for the purpose of demanding why some other route was not chosen."

It is true that the turnpike then in question was being constructed under an earlier version of this statute however, the present version had been enacted almost two years before the Court wrote that opinion.

In *Combs* v. *Illinois State Toll Highway Commission*, 128 F. Supp. 305, the Court refused to intervene in locating the Illinois toll road even though no hearing was held and it was offered to prove that the road would not meet a similar Indiana road at the state line and that the de-

fendants had made other mistakes. There the test was laid down that there must be more than mere error of judgment, but the improper action must be due to bad faith, fraud, corruption, manifest oppression or a clear abuse of discretion. Also see *City of Elizabeth* v. *New Jersey Turnpike Authority*, 72 A.2d 399.

3. Oklahoma's Procedure on Bond Validations Is Both Reasonable and Established and Does Not Deny Due Process

Application of Oklahoma Turnpike Authority, 221 P.2d 795, related to Oklahoma's first turnpike. Protestants appeared and asked to present evidence. They presented an offer of proof and the Court in its sixteenth syllabus said:

> "The provisions of the Oklahoma Turnpike Act authorizing this proceeding in this Court do not constitute violation of any constitutional provision as to due process of law."

and at page 815:

> "Upon the whole we conclude that these several items offered to be proven are immaterial, and the offer to introduce evidence thereon is denied * * *.
>
> "For the reasons stated, it is apparent, and we find that the protestants had ample opportunity to present their objections and protest to the approval of this bond issue."

This decision is very definitely the present Oklahoma law and dispositive of this case since the Oklahoma Legislature re-enacted the identical procedure in the enabling legislation herein involved.

In *Pryor* v. *Western Paving Company*, 74 Okla. 308, 184 Pac. 88, 90, the Oklahoma Supreme Court held:

> "The constitutional right to a hearing does not exist in all classes of cases, where rights of individuals are affected or interfered with by official action or procedure. All questions which are political in their nature and lie within the legislative province may be determined without notice or hearing. The power to exercise the right of eminent domain, and all questions of taxation, and the question of whether a particular work shall be done or improvement of a public nature shall be made, or particular property taken by the duly constituted authorities, furnish splendid illustrations of cases in which the owner is not entitled to a hearing as a matter of right (Cases cited)."

In *Petition of Grand River Dam Authority*, 320 P.2d 706, 708, the Oklahoma Supreme Court had before it a like proceeding wherein:

> "Thousands of parties have appeared herein as respondents or by attorneys as amici curiae. There are numerous electric cooperatives; the Oklahoma Farm Bureau represents many farm families; numerous signers of a petition of protest are represented; represented also are a large number of business and professional persons from the area; other farmers and business men appear as Eastern Oklahoma Flood Control Association. Many briefs have been filed and extensive oral arguments have been heard.
>
> "This procedure, however, is not an adversary one within the general jurisdiction of this court."

Thus the court distinguishes this type of proceeding from the customary litigation. Further it points up the

impossible condition that could exist if it could be forced to hear all the evidence any party would offer. The consequences were envisioned by the Iowa Supreme Court in *Brutsche, et al.* v. *Incorporated Town of Coon Rapids*, 223 Iowa 487, 272 N.W. 624, 631, the Iowa Supreme Court in interpreting a statute which likewise provided for a "hearing or any adjournment thereof."

> "Property owners objections were in writing. These people had a right to object, and they were entitled to be heard. The Town of Coon Rapids gave them that right. The objectors exercised that right by filing their written objection; by employing able counsel, who went with them to the meeting and there orally objected. They then asked permission to offer evidence to sustain the allegations of their written objections.
>
> "The Council knew what the objections were; it wasn't necessary to offer evidence to sustain these objections. How could a City Council listen to evidence and pass upon same? Would it be required to listen to the evidence of each and every one of the 200 objectors? Would each objector be entitled to an expert to tear apart the 63-page specifications and point out wherein they were wrong? Would the Council have the right to limit the evidence to one or two objectors? Could it limit the cross-examination, or was it forced to set there and listen to the unlimited evidence that might have been offered? * * * If the Legislature had intended that the Council not only hear objections but also take evidence and hear proof with respect thereto it would have said so, exactly as it has said in respect to other hearings."

The fact that a procedure is so old as to become customary and well established in a community is also of

great weight in determining whether it conforms to due process. See *Anderson National Bank* v. *Luckett*, *supra*.

It, therefore, being clear that there was no constitutional requirement for a public hearing, the question as to whether a public hearing should be held and the nature and formality incident thereto were matters within the discretionary power of the Legislature.

In the instant case as in previous bond validation proceedings the protestants were only granted the right to "file protests against the issuance of the bonds and be present at the hearing and contest the legality thereof" (69 O.S. Supp. 1959, § 668). No mention is made of evidence or referees. The Legislature properly left the question as to whether evidence was to be heard or a referee appointed to the discretion of the Oklahoma Supreme Court. This was established procedure in Oklahoma on revenue financing projects.

Petitioner was allowed to file his protest as well as four other pleadings. He was present in person and was heard by counsel in two hearings totaling over five hours before the Court *en banc* at which he contested the legality of the Application.

Parenthetically it should be observed that his protest was quite successful since he prevailed on two major points, to-wit: (1) the Authority's vested right in continued apportionment of an amount equal to the fuel tax on fuel consumed on the turnpikes was denied and (2) the agreements between the Highway Department and Turnpike Authority were held unenforceable.

Thus it is abundantly clear that the legislative directive was met. Secondly, it is clear that petitioner was not confronted by an unfriendly court. Third, the Oklahoma Supreme Court was within its established and rightful procedure in determining the materiality of evidence offered and the need for the assistance of a referee.

Finally, the court on various occasions, as reflected by its orders, did exhaustively consider its need for evidence, and concluded in its discretion that none was needed. The Oklahoma Supreme Court was anything but arbitrary with this petitioner!

II. This Petitioner Does Not Have Sufficient Legal Standing to Assert a Violation of the Due Process Clause and Obtain the Relief Here Sought of the United States Supreme Court.

A. *Petitioner has only a negligible interest without justiciable standing or directness.*

As a general rule the constitutionality of governmental action (in this case judicial action) is to be considered in the light of the party raising the question. The Fourteenth Amendment protects one who is deprived of life, liberty or property without due process of law. Here there is no evidence that the court's action deprived petitioner of life, liberty or property!

MR. JUSTICE FRANKFURTER in his searching concurring opinion in *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U.S. 123, 71 S. Ct. 624, 637, 95 L. Ed. 817, outlined the law as to who may invoke the protection of

the Fourteenth Amendment far better than the attorneys writing this brief could, and it is quoted in part as follows:

> "(1) The simplest application of the concept of 'standing' is to situations in which there is no real controversy between the parties. Regard for the separation of powers, see Muskrat v. United States, 219 U.S. 346, 31 S. Ct. 250, 55 L. Ed. 246, and for the importance to correct decision of adequate presentation of issues by clashing interests, see Chicago & G. T. R. Co. v. Wellman, 143 U.S. 339, 12 S. Ct. 400, 36 L. Ed. 176, restricts the courts of the United States to issues presented in an adversary manner. A petitioner does not have standing to sue unless he is 'interested in, and affected adversely by, the decision' of which he seeks review. His 'interest must be of a personal, and not of an official, nature.' Braxton County Court v. State of West Virginia ex rel, Dillon, 208 U.S. 192, 197, 28 S. Ct. 275, 276, 52 L. Ed. 450; see also Commonwealth of Massachusetts v. Mellon, 262 U.S. 447, 43 S.Ct. 597, 67 L. Ed. 1078. The interest must not be wholly negligible, as that of a taxpayer of the Federal Government is considered to be, Frothingham v. Mellon, 262 U.S. 447, 43 S. Ct. 597, 67 L. Ed. 1078; cf. Crampton v. Zabriskie, 101 U.S. 601, 25 L. Ed. 1070. A litigant must show more than that 'he suffers in some indefinite way in common with people generally.' Frothingham v. Mellon, supra, 262 U.S. at page 488, 43 S. Ct. at page 601. * * *"

Finally for rights protected under the Fourteenth Amendment to have actually been violated, the injury must not be remote, contingent or speculative (*Gange Lumber Co. v. Rowley*, 326 U.S. 295, 305, 66 S. Ct. 125, 130, 90 L. Ed. 85. Also, claims based merely upon "assumed potential invasion" of rights are not enough to warrant ju-

dicial intervention. (*Ashwander* v. *Tennessee Valley Authority*, 297 U.S. 288, 324, 56 S. Ct. 466, 472, 80 L. Ed. 688, which cites *Arizona* v. *California*, 283 U.S. 423, 462, 51 S. Ct. 522, 75 L. Ed. 1154.)

> "The protection of the Federal Constitution against state action is only for benefit of those actually injured." (*Columbus and G. Ry. Co., et al.* v. *Miller*, 283 U.S. 96, 51 S. Ct. 392, 75 L. Ed. 861.

The Fourteenth Amendment is not a guaranty that a trial shall be devoid of error. (*Roberts* v. *City of New York*, 295 U.S. 264, 277, 55 S. Ct. 689, 691, 79 L. Ed. 1429.)

It hardly seems that this petitioner, who is only one out of over two million citizens, has been so injured when only "state funds and revenues *most likely* will have to be used to support an economically unsound toll road project" (Emphasis supplied). Nor does the fact that state highways "proposed to be built by the State Highway Department must be constructed out of public tax revenues" appear to be such an injury.

B. *Petitioner cannot complain of a ruling granting relief he sought.*

The defendant is not entitled to complain of the parts of the decision which were in his favor, but only such parts as were adverse to him. *Alexander* v. *Cosden Pipe Line Co.*, 290 U.S. 484, 487, 54 S. Ct. 292, 293, 78 L. Ed. 452. Yet petitioner seeks relief on grounds wherein the Supreme Court of Oklahoma granted the full relief requested in his protest (as explained at pages 11-12 above).

C. *This petitioner is estopped to complain.*

Thus on one point petitioner is complaining as to a decision which granted him all of the relief he sought in his protest and on the other two he is complaining as to actions in which he joined as a member of the Oklahoma Turnpike Authority. The constitutional right may be waived or the right to claim it barred, as other rights may be, by deliberate election or by conduct inconsistent with the assertion of such a right. (*Pierce Oil Corporation* v. *Phoenix Refining Co.*, 259 U.S. 125, 128, 42 S. Ct. 440, 442 66 L. Ed. 855 and cases cited therein; *Owens* v. *Corporation Commission of the State of Oklahoma*, 41 F.2d 779, 803; *In re Conway*, 121 F.2d 972, 3rd Circuit, *certiorari denied*, 62 S. Ct. 361; *Ralston* v. *Cox*, 123 F.2d 196, 198, *certiorari denied*, 62 S. Ct. 448; *Young* v. *Anderson*, 160 F.2d 225, 226.)

D. *Certiorari does not lie to review evidence only, or for delay.*

The Supreme Court of the United States does not normally grant a writ merely to review evidence or inferences drawn from it (*General Talking Pictures Corporation* v. *Western Electric Co., Inc.*, 304 U.S. 175, 178, 58 S. Ct. 849, 851, 82 L. Ed. 1273, and cases cited therein).

Nor does the Supreme Court review technical questions tending to embarrass the progress and delay the final ending of the action, the merits of which are with the respondent. (*Green County* v. *Thomas*, 211 U.S. 598, 29 S. Ct. 168, 53 L. Ed. 343.)

A final pertinent rule is that in determining the sufficiency of evidence to support findings of fact the evidence must be viewed in the light most favorable to factual conclusion reached by the trier of facts (*Mueller* v. *Powell*, 203 F.2d 797, 8th Circuit).

CONCLUSION

Petitioner had more than his "day in court." He obtained much of the relief he sought. The balance of his petition goes to official actions in which he joined and is thus estopped to assert.

But even if he is not estopped, the writ should be denied since the hearings held were in accord with established procedure in Oklahoma in similar proceedings. Without legislative mandate, no hearing was necessary. With it, no more than that required by the Legislature was necessary to grant due process.

The Oklahoma Supreme Court was within its discretion to deny a reference for the taking of evidence on immaterial points. To hold otherwise is to open the doors to injustice by deliberate delaying procedures, or something akin to anarchy.

Having been heard at length orally and in writing under a fair and reasonable procedure, this petitioner has not been denied due process. Likewise this petitioner does not have sufficient legal "standing" to assert an alleged denial of due process.

It is, therefore, respectfully urged that his petition be denied so that the sovereign State of Oklahoma might proceed with its urgently needed road program.

NED LOONEY,
LOONEY, WATTS, LOONEY, NICHOLS & JOHNSON,
765 First National Building,
Oklahoma City, Oklahoma;

NORMAN E. REYNOLDS, JR.,
REYNOLDS & RIDINGS,
1101 Republic Building,
Oklahoma City 2, Oklahoma;

MITCHELL, PERSHING, SHETTERLY & MITCHELL,
39th Floor, 30 Broad Street,
New York 4, New York,
Counsel for Respondent.

May, 1961.

In the

SUPREME COURT OF THE UNITED STATES

October Term, 1967

No. 957

APPENDIX TO RESPONSE AND BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

INDEX

PAGE

Exhibit K:

Affidavit of Bill Hoover, Petitioner . . . . . i-vi

Exhibit L:

Minutes of the Official Meeting of Oklahoma Turnpike Authority, September 30, 1960 . . . . . vi-xxiii

Exhibit M:

Excerpts from Trust Agreement . . . . . xxv-xxix

Exhibit N:

Maps of Eastern Turnpike and Southwestern Turnpike . . . . . xxxi-xxxiii

APPENDIX

EXHIBIT K

AFFIDAVIT

The undersigned affiant, of lawful age, being first duly sworn, upon oath states that he is the Protestant herein, and that he has read the foregoing Application for reference, and the statements therein made are true and correct.

Affiant further states that he is informed and verily believes that the matters and issues of fact set out below are or may be controverted, and are relevant and material to the issues of law which must be adjudicated in this cause.

Affiant further states that he is informed and verily believes that the following material matters and issues of fact would be established by evidence, records and documents, and the testimony of witnesses, including members and employees of the Authority and the Oklahoma State Highway Department, officials of the Bureau of Public Roads of the United States, the State Budget Director of Oklahoma, and consulting engineers, attorneys, public officials and other witnesses.

The matters set out below relate to some of the most material and most serious issues of fact involved in this cause; although there are numerous other important issues of fact not possible to be covered hereby.

The purported contract entered into between the Authority and the Highway Department, dated July 6, 1960, relating to the Southwest Turnpike, attempts to obligate the State Highway Department to construct to Turnpike standards within 30 months after bonds are sold, and thereafter to operate and maintain certain portions of the South-

west Turnpike, totalling in excess of 40 miles. Other portions of the Southwestern Turnpike are already under construction by the Highway Department. The Authority seeks an adjudication in this action that the purchasers of the Southwestern Turnpike bonds have a vested contract right by which they can enforce the building of these roads by the State. The estimated cost of construction of the projects concerned is some $18,000,000. Most of the projects qualify for only 50% Federal participation, so that approximately ½ of the construction cost will have to be paid by the State.

The purported contract relating to the Eastern Turnpike attempts to obligate the Highway Department to construct to Turnpike Authority standards, within 30-36 months after bonds are sold, and thereafter to operate and maintain certain portions of the Eastern Turnpike, totalling over 32 miles. Other portions of the Eastern Turnpike are already planned or under construction by the Highway Department, totalling some 11 miles. These additional roads to be built by the State are not mentioned in the Trust Indenture. The estimated cost of construction of the State projects referred to in the Contract is some $13,000,000, plus approximately $5,000,000 for additional State-built roads not referred to therein. Even after construction thereof, almost half of the Eastern Turnpike, (the section between McAlester and the south boundary of the State) approximately 70 miles will remain unconstructed, and will have to be financed and constructed thereafter by the Authority, or the Commission, at a total cost of more than $50,000,000.

Maintenance and repair of these roads to be built by the Highway Department will cost between $1,000 and $1,500 per mile per year.

None of the projects covered by either of the contracts between the Authority and the Highway Department has been let for construction. No contracts have been made

with contractors for any of this work. No work orders have been issued. None of these projects has been submitted to the Budget Office for approval, and for allocation or earmarking of funds out of unencumbered cash balances available in the current appropriation. The contracts attached to the Application have not been submitted to the Budget Office, and no funds have been allocated or set aside to pay for all or any part of the construction projects referred to therein, and appropriations have not been made by the Oklahoma Legislature to pay for the same.

As to some of the projects, plans are being made, while as to others, only preliminary surveys have been had, with no preparation of detailed plans having been started. Final approval by the Bureau of Roads of the United States has not been obtained on any of these projects. The United States, through the Bureau of Roads, has not committed matching funds for construction of any of these projects, nor has the United States entered into any enforceable contract or commitment as to any such matching funds.

Present plans call for letting contracts for construction of various of the projects, or parts thereof, from time to time, up to and after July, 1962. Contracts may be executed as to some of these projects, and funds allocated out of current appropriations during the fiscal year 1961-1962, and during the fiscal year 1962-1963, under present plans. These plans are subject to revision or postponement for any one of a number of reasons, including delay in completing plans, delay in approval, and unavailability of State or Federal funds, or both.

If any delay results in approval or sale of the bonds, particularly the bonds for the Eastern Turnpike, the letting and construction of these projects will be postponed accordingly, so that it is impossible accurately to state in what fiscal year the contracts actually will be let.

[APPENDIX]

As of August 31, 1960, there remained in the appropriation of the Highway Department an unencumbered balance of surplus cash on hand of approximately $9,300,000 for the fiscal year ending June 30, 1960. Out of this sum must be paid the expenses for maintenance and repair of highways throughout the State for the balance of the fiscal year.

Since August 31, 1960, various lettings have been made by the Highway Department, totalling some 10-12 million dollars. Contracts on these projects have not yet been executed, or work orders issued. Other projects on previous lettings are awaiting preparation and execution of contracts and issuance of work orders. Funds will be set aside or allocated out of the above total to pay for these projects as and when presented to the Budget Officer.

No funds are committed by or on behalf of the United States until final project approval, generally secured shortly before actual letting of contracts. Approval is not given unless there remains a sufficient amount in the State's allocation of matching Federal funds, to cover the Federal share of the project.

The unencumbered cash balance remaining in the appropriation of the Highway Department is insufficient to pay the cost of the projects referred to in the contracts between the Authority and the Highway Department as to the Southwestern Turnpike, the Eastern Turnpike, or both. The unencumbered balance is insufficient to pay the State's projected share thereof, after receipt of anticipated Federal matching funds. The balance of the State's share of unallocated Federal matching funds in applicable categories is insufficient to permit payment or allocation of the anticipated Federal share thereof.

The original approval by the Authority of the route and designation of the Eastern Turnpike; and the original purported determination by the Authority that the 40 mile

segment thereof referred to in the Trust Indenture was feasible and economically sound, was made by the Authority prior to receipt of the Traffic Report of Wilbur Smith and Associates and prior to receipt of the Engineering Report of DeLeuw, Cather & Company.

The Traffic Report and Engineering Report, when received, together with other expert engineering and financial information and data then available; showed that the Eastern Turnpike was not and could not be feasible or economically sound. The estimated interest cost plus cost of operation and maintenance for the first year of operation would be approximately $1,800,000, while gross estimated income for the same period would be only $946,000 for the same period. The relationship of income to interest and cost of operation (referred to as "coverage") for the Eastern Turnpike would be approximately .51, whereas coverage of 1.50 is required for a feasible or financially sound project, so as to render the bonds marketable.

If the portions of the Eastern Turnpike now contemplated to be built by the Highway Department were built by the Authority, the project would be no more feasible or economically sound, and in all probability would be less feasible and less economically sound. The same is true of the portions not now included in the Eastern Project, but left for future construction by the Highway Department or the Authority.

Some 20 miles of roads, in connection with the Southwestern Turnpike, primarily at each end thereof, are lead roads, interchanges and access roads. If these roads were built by the Authority, the cost of the project would be increased from some $59 million dollars to approximately $75-80 million. These roads do not constitute existing highways, but are connection roads between the Turnpike and existing highways.

A similar portion of the roads contemplated to be built by the Highway Department in connection with the Eastern Turnpike constitute lead roads, interchanges and access roads.

This affidavit constitutes only a summary of evidence and testimony of witnesses upon some, but not all, of the material issues of fact which are or may be controverted.

/s/ Bill Hoover
Affiant

State of Oklahoma)
) SS
County of Oklahoma)

Subscribed and sworn to before me, a notary public in and for the above county and state, this 17th day of October, 1960.

/s/ Mildred Chilcutt
Notary Public

My commission expires:
7-16-61

(S E A L)
Affixed

EXHIBIT L

Minutes of the Official Meeting
OKLAHOMA TURNPIKE AUTHORITY

September 30, 1960

A special meeting of the Oklahoma Turnpike Authority was duly called and held at the office of the Oklahoma Turnpike Authority, Oklahoma City, Oklahoma, on September 30, 1960, at the hour of 10:00 o'clock A.M., pursuant to the following Notice and Call and Waiver of Notice:

NOTICE AND CALL FOR SPECIAL MEETING

I, the undersigned Chairman of the Oklahoma Turnpike Authority, do hereby call a special meeting of the Oklahoma Turnpike Authority and the members thereof to be held at 10:00 o'clock A.M., on September 30, 1960, in the office of the Oklahoma Turnpike Authority, Oklahoma City, Oklahoma, for the purpose of then and there considering and adopting a resolution authorizing the issuance of Fifty-Nine Million Dollars ($59,000,000) turnpike revenue bonds of the Oklahoma Turnpike Authority for the construction of a turnpike project on the Southwestern Route and the issuance, subject to and upon compliance with the terms of the trust agreement securing said bonds, of Thirty-One Million Dollars ($31,000,000) turnpike revenue bonds of the Oklahoma Turnpike Authority for the construction of a turnpike project on the Eastern Route, and authorizing the execution and delivery of said trust agreement, and for the consideration of any and all business of every kind or character pertaining to any of the purposes above set forth or such other purposes as may be deemed by the members of said Authority for the good of the Oklahoma Turnpike Authority.

WITNESS my hand this the 30th day of September, 1960.

(Signed) Marvin Millard
Chairman

ATTEST:

Ned Shepler (Signed)
Secretary

WAIVER OF NOTICE

We, the undersigned, being members of the Oklahoma Turnpike Authority, and all being present, do hereby consent to an immediate meeting of the members of the Oklahoma Turnpike Authority to be held in the office of

the Oklahoma Turnpike Authority, Oklahoma City, Oklahoma, on this the 30th day of September, 1960, at the hour of 10:00 o'clock A.M. for the purposes set forth in the Chairman's notice and call of said meeting and for the transaction of any and all other business that may come before said meeting, and we do hereby waive notice of such meeting and agree to the transaction thereat of any and all business mentioned in the Chairman's call or any other business that may come before said meeting pertinent to the affairs of the Oklahoma Turnpike Authority.

WITNESS our hands this the 30th day of September, 1960.

(Signed) Marvin Millard
(Signed) Ned Shepler
(Signed) John Kilpatrick
(Signed) Bill Hoover
(Signed) Riley Smith
(Signed) Kirk Woodliff
(Signed) J. Howard Edmondson

The meeting was called to order by the Chairman, and upon roll call the following members of the Authority were found to be present:

Marvin Millard
Ned Shepler
John Kilpatrick
Bill Hoover
Riley Smith
Kirk Woodliff

all of whom were present throughout the entire meeting.

The following members were absent:

Governor J. Howard Edmondson

EXHIBIT A (OF APPLICATION)

After due consideration of all pertinent data and factors bearing upon the location and construction of the South-

western Turnpike, including the engineering report of De Leuw, Cather & Company, Consulting Engineers, dated July 15, 1960, and the traffic report of Wilbur Smith and Associates, Traffic Engineers, dated July 30, 1960. Mr. Kirk Woodliff introduced and moved the adoption of the following resolution, which motion was seconded by Mr. John Kilpatrick:

A RESOLUTION ACCEPTING AND APPROVING THE ENGINEERING REPORT OF DE LEUW, CATHER & COMPANY AND THE TRAFFIC REPORT OF WILBUR SMITH AND ASSOCIATES IN RELATION TO THE SOUTHWESTERN TURNPIKE, DETERMINING ITS LOCATION AND THE LOCATIONS OF THE PARTS THEREOF TO BE CONSTRUCTED AND FINANCED BY THE AUTHORITY, AND RATIFYING THE ACTIONS HERETOFORE TAKEN IN RELATION THERETO.

WHEREAS, De Leuw, Cather & Company, Consulting Engineers, of Chicago, Illinois, have made investigation and studies and have prepared and filed with the Oklahoma Turnpike Authority (hereinafter sometimes called the "Authority") their engineering report dated July 15, 1960, briefly setting forth the location of the turnpike (hereinafter sometimes called the "Southwestern Route") which is authorized by clause (2) of subdivision (e) of Section 655 of Title 69, Oklahoma Statutes Annotated, as amended, as determined by the Authority and approved by the State Highway Commission, and also the location, the design standards and specification requirements and estimates of the costs of constructing and of maintaining, repairing and operating parts thereof (such parts being hereinafter sometimes called the "Southwestern Turnpike Project"): and

[APPENDIX]

WHEREAS, Wilbur Smith and Associates, Traffic Engineers, of New Haven, Connecticutt, have made investigations and studies and have prepared and filed with the Authority their traffic report dated July 30, 1960, setting forth their estimates with respect to the potential traffic estimated to use the Southwestern Turnpike Project and the estimated revenues to be received therefrom based on the tolls recommended by them; and

WHEREAS, the Oklahoma Department of Highways (hereinafter sometimes called the "Highway Department") has constructed or now has under construction, in accordance with design standards and specification requirements which have been approved by the Authority, parts of the Southwestern Route and the Highway Department and the Authority have entered into an agreement providing for the Highway Department to construct in accordance with design standards and specification requirements approved by the Authority and to maintain, repair and operate additional parts of the Southwestern Route, including a four-lane divided bridge and approaches across the South Canadian River, one-fourth (¼) of the cost of which bridge is to be paid by the Authority, and for the Authority to construct, maintain, repair and operate the remaining parts of the Southwestern Route; and

WHEREAS, the locations of the Southwestern Route and the Southwestern Turnpike Project hereinafter set forth have been approved by the State Highway Commission; and,

WHEREAS, the term "Southwestern Route" encompasses the total highway route from the western terminus of the Turner Turnpike to the Red River as more specifically described herein; and,

WHEREAS, a portion of such Route is the Southwestern Turnpike Project, which is that portion of said Route to be under the jurisdiction and maintenance and

supervision solely of the Oklahoma Turnpike Authority and that the balance of said Route is and shall remain under the jurisdiction and maintenance and supervision of the Oklahoma Highway Department, and it is understood that where the foregoing terms are used herein, that the definition set out in this Paragraph shall be applied throughout this resolution and the application filed in compliance herewith; now, therefore,

BE IT RESOLVED by the Oklahoma Turnpike Authority:

Section 1. The above mentioned engineering report of DeLeuw, Cather & Company and the above mentioned traffic report of Wilbur Smith and Associates be and the same are hereby accepted and approved.

Section 2. All actions and proceedings heretofore taken by the Authority and its officers and agents in connection with the location of the Southwestern Route and the location on the route thereof of the Southwestern Turnpike Project be and the same are hereby ratified, approved and confirmed, the location of the Southwestern Route being as follows:

> a route beginning at the Oklahoma City Terminus of the Turner Turnpike and extending south along Interstate Route I-35, being the Oklahoma City East By-Pass, to the Southea . 74th Street Cloverleaf at the junction of said Interstate Route I-35 and the Oklahoma City South By-Pass, thence west along said South By-Pass to a junction with the Oklahoma City West By-Pass, thence south along said West By-Pass to the Newcastle Bridge across the South Canadian River, thence southwesterly along a route passing within two miles of the city limits of Chickasha to the junction of U.S. Route No. 62, U.S. Route No. 277, U.S. Route No. 281 and State Highway No. 49 north of Lawton, Oklahoma, thence south across

the Ft. Sill Military Reservation and the east side of Lawton to the junction of U.S. Route No. 277, U.S. Route No. 281 and State Highway No. 36 south of Lawton, thence south and southwesterly to the interstate bridge over the Red River northeast of Burkburnett, Texas, the total length of said route being 134.6 miles,

and the Southwestern Turnpike Project consisting of the following parts thereof:

that part of said route beginning at a point approximately 1.5 miles south of said Newcastle Bridge, thence southwesterly to the junction of U.S. Route No. 62, U.S. Route No. 277, U.S. Route No. 281 and State Highway No. 49 north of Lawton, a distance of 60.3 miles, and

that part of said route from the junction of U.S. Route No. 277, U.S. Route No. 281 and State Highway No. 36 south of Lawton to the connection of State Highway No. 70 west of Randlett, a distance of 24.3 miles.

Section 3. The Authority hereby finds and determines that the locations and routes set forth in Section 2 above are in conformity with the provisions of clause (2) of subdivision (e) of Section 655 of Title 69, Oklahoma Statutes Annotated, as amended, and that the locations and routes of the Southwestern Turnpike Project are feasible and economically sound.

Section 4. The execution by the Authority of the agreement with the Oklahoma Department of Highways which is mentioned in the preambles of this Resolution be and the same are hereby ratified, approved and confirmed.

The foregoing Resolution was adopted, the vote thereon being as follows:

Yeas: Hoover, Kilpatrick, Shepler, Smith, Woodliff, Millard

Nays: None

After due consideration of all pertinent data and factors bearing upon the location and construction of the Eastern Turnpike including the engineering report of De Leuw, Cather & Company, Consulting Engineers, dated August 15, 1960, and the traffic report of Wilbur Smith and Associates, Traffic Engineers, dated September 1, 1960, Mr. Smith introduced and moved the adoption of the following resolution, which motion was seconded by Mr. Shepler:

A RESOLUTION ACCEPTING AND APPROVING THE ENGINEERING REPORT OF DE LEUW, CATHER & COMPANY AND THE TRAFFIC REPORT OF WILBUR SMITH AND ASSOCIATES IN RELATION TO THE EASTERN TURNPIKE, DETERMINING ITS LOCATION AND THE LOCATION OF THE PART THEREOF TO BE CONSTRUCTED AND FINANCED BY THE AUTHORITY, AND RATIFYING THE ACTIONS HERETOFORE TAKEN IN RELATION THERETO.

WHEREAS, De Leuw, Cather & Company, Consulting Engineers, of Chicago, Illinois, have made investigations and studies and have prepared and filed with the Oklahoma Turnpike Authority (hereinafter sometimes called the "Authority") their engineering report dated August 15, 1960, briefly setting forth the location of the turnpike (hereinafter sometimes called the "Eastern Route") which is authorized by clause (4) of subdivision (e) of Section 655 of Title 69, Oklahoma Statutes Annotated, as amended, as determined by the Authority and approved by the State Highway Commission, and also the location, the design standards and specification requirements and estimates of

the costs of constructing and of maintaining, repairing and operating a part thereof (such part being hereinafter sometimes called the "Eastern Turnpike Project"); and

WHEREAS, Wilbur Smith and Associates, Traffic Engineers, of New Haven, Connecticut, have made investigations and studies and have prepared and filed with the Authority their traffic report dated September 1, 1960, setting forth their estimates with respect to the potential traffic estimated to use the Eastern Turnpike Project and the estimated revenues to be received therefrom based on the tolls recommended by them; and

WHEREAS, the Oklahoma Department of Highways (hereinafter sometimes called the "Highway Department") and the Authority have entered into an agreement providing for the Highway Department to construct in accordance with design standards and specifications requirements approved by the Authority and to maintain, repair and operate parts of the Eastern Route, and for the Authority to construct, maintain, repair and operate a part of the Eastern Turnpike; and

WHEREAS, the locations of the Eastern Route and the Eastern Turnpike Project hereinafter set forth have been approved by the State Highway Commission; and

WHEREAS, the term "Eastern Route" encompasses the total highway route from the eastern terminus of the Turner Turnpike to the Red River as more specifically described herein; and,

WHEREAS, a portion of such Route is the Eastern Turnpike Project, which is that portion of said Route to be under the jurisdiction and maintenance and supervision solely of the Oklahoma Turnpike Authority and that the balance of said Route is and shall remain under the jurisdiction and maintenance and supervision of the Oklahoma Highway Department, and it is understood that where the

foregoing terms are used herein, that the definition set out in this Paragraph shall be applied throughout this resolution and the application filed in compliance herewith, now, therefore,

BE IT RESOLVED by the Oklahoma Turnpike Authority:

Section 1. The above mentioned engineering report of DeLeuw, Cather & Company and the above mentioned traffic report of Wilbur Smith and Associates be and the same are hereby accepted and approved.

Section 2. All actions and proceedings heretofore taken by the Authority and its officers and agents in connection with the location of the Eastern Route and the location on the route thereof of the Eastern Turnpike Project be and the same are hereby ratified, approved and confirmed, the location of the Eastern Route being as follows:

A route beginning at the cloverleaf intersection on the Tulsa 51st Street By-Pass approximately one-fourth mile east of present U.S. Route No. 169, the same being a connection with the Turner Turnpike on the south side of the Arkansas River, thence south and southeast to a point in the vicinity of the Okmulgee Municipal Airport, thence south to the Henryetta East By-Pass in the N ½ of Section 18, T11N, R13E, in Okmulgee County, thence south along said Henryetta East By-Pass to the junction of Interstate Route 40 and the Henryetta East By-Pass southeast of Henryetta, thence south and southeast to a connection with U.S. Route No. 69 between McAlester and the U.S. Naval Ammunition Depot, thence to the Oklahoma-Texas state boundary line,

AND the Eastern Turnpike Project consisting of the following part thereof:

that part of said route beginning at the cloverleaf intersection at the junction of Interstate Route 40

and the Henryetta East By-Pass southeast of Henryetta, and extending South and southeasterly a distance of approximately 40.2 miles to a connection with U.S. Route No. 69 between McAlester and the U.S. Naval Ammunition Depot, including the roads required to connect the northern terminus with Interstate Route 40 and U.S Route No. 62 and U.S. Route No. 75 as relocated through said cloverleaf intersection.

Section 3. The Authority hereby finds and determines that the locations and routes set forth in Section 2 above are in conformity with the provisions of clause (4) of subdivision (c) of Section 655 of Title 69, Oklahoma Statutes Annotated, as amended, and that the location and route of the Eastern Turnpike Project are feasible and economically sound.

Section 4. The execution by the Authority of the agreement with the Oklahoma Department of Highways which is mentioned in the preambles of this Resolution be and the same is hereby ratified, approved and confirmed.

The foregoing Resolution was adopted, the vote thereon being as follows:

Yeas: Kilpatrick, Shepler, Smith, Woodliff, Millard.

Nays: Hoover.

EXHIBIT H (OF APPLICATION)

Mr. Kilpatrick introduced and moved the adoption of the following resolution, which motion was seconded by Mr. Smith:

A RESOLUTION AUTHORIZING THE ISSUANCE OF $90,000,000 TURNPIKE REVENUE BONDS OF THE OKLAHOMA TURNPIKE AUTHORITY CONSISTING OF $59,000,000 TURNPIKE REVENUE BONDS (SOUTHWESTERN TURNPIKE PROJECT) AND $31,000,000 TURNPIKE REVENUE BONDS (EASTERN TURNPIKE PROJECT) AND AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST AGREEMENT SECURING SAID BONDS.

BE IT RESOLVED by the Oklahoma Turnpike Authority:

Section 1. The Oklahoma Turnpike Authority, a body corporate and politic and an instrumentality of the State of Oklahoma created as hereinafter set forth, has found and determined and does hereby declare that, pursuant to Title 69, Sections 651 to 695, inclusive, Oklahoma Statutes Annotated, as amended (hereinafter sometimes called the "Enabling Act"), the Oklahoma Turnpike Authority (hereinafter sometimes called the "Authority"), was duly created a body corporate and politic and constituted an instrumentality of the State, and is authorized and empowered:

(a) to construct, maintain, repair and operate turnpike projects (as defined in the Enabling Act), with their access and connecting roads at such locations and on such routes as it shall determine to be feasible and economically sound and as are specified in the Enabling Act, including that part in Oklahoma of a turnpike between a connection with the Turner Turnpike near the Oklahoma City Terminus and Wichita

Falls, Texas, as provided in Section 655 (e) (2) of the Enabling Act (hereinafter sometimes called the "Southwestern Route"), or any part of parts thereof, and a turnpike, or any part of parts thereof, beginning at the Oklahoma-Texas State boundary line and extending north to a connection or connections between the Turner Turnpike and the south side of the Arkansas River, as provided in Section 655 (e) (4) of the Enabling Act (hereinafter sometimes called the "Eastern Route");

(b) to issue turnpike revenue bonds of the Authority, payable solely from revenue, including the revenues accruing to the Trust Fund created by the Enabling Act, for the purpose of paying all or any part of the cost of any one or more turnpike projects; and

(c) to fix, revise, charge and collect tolls for the use of said turnpike projects for paying the cost of operation, maintenance and repair of said projects, to pay as and when due principal and interest on the bonds issued to pay for said projects, and to accumulate and maintain such reserves as are provided for in the resolution or trust agreement under which the bonds are issued or secured.

Section 2. In order to facilitate vehicular traffic and remove the present handicaps and hazards on the congested highways in the State of Oklahoma, to provide for the construction of modern expressways embodying safety devices, and to promote the welfare and prosperity of the State of Oklahoma and the safety, convenience and well being of its people, it is necessary and desirable to finance and construct, pursuant to the Enabling Act, and the Authority hereby approves and authorizes the construction of:

(a) a turnpike project (hereinafter sometimes called the "Southwestern Turnpike Project") on the route

and as a part of the Southwestern Route as heretofore determined and fixed by the Authority, and in accordance with the design standards and specification requirements which are set forth in the engineering report of DeLeuw, Cather & Company dated July 15, 1960 mentioned in the preambles of the trust agreement authorized by this Resolution (hereinafter sometimes called the "Trust Agreement"), and

(b) a turnpike project (herein sometimes called the "Eastern Turnpike Project") on the route and as a part of the Eastern Route as heretofore determined and fixed by the Authority, and in accordance with the design standards and specification requirements which are set forth in the engineering report of DeLeuw, Cather & Company dated August 15, 1960 mentioned in the preambles of the Trust Agreement.

Section 3. For the purpose of paying the cost of the Southwestern Turnpike Project and one-fourth (¼) of the cost of the bridge over the South Canadian River on the route of the Southwestern Turnpike, the issuance of turnpike revenue bonds of the Authority in the aggregate principal amount of Fifty-nine Million Dollars ($59,000,000) is hereby authorized. Said bonds shall be designated "Turnpike Revenue Bonds (Southwestern Turnpike Project) (herein sometimes called the "Southwestern Turnpike Project bonds").

Section 4. For the purpose of paying the cost of the Eastern Turnpike Project, the issuance of turnpike revenue bonds of the Authority in the aggregate principal amount of Thirty-one Million Dollars ($31,000,000) is hereby authorized. Said bonds shall be designated "Turnpike Revenue Bonds (Eastern Turnpike Project)" (herein sometimes called the "Eastern Turnpike Project").

Section 5. All said bonds shall be dated as of the 1st day of July, 1960, and shall be stated to mature, subject to the right of prior redemption as set forth in the Trust Agreement, on the 1st day of July, 2000, and shall bear interest at such rate or rates as shall hereafter be determined by the Authority by resolution, such interest to the maturity thereof being payable semi-annually on the 1st day of January and July in each year.

Section 6. The definitive bonds of each series shall be issuable as coupon bonds, registrable as to principal alone, in the denomination of $1,000 each, and as registered bonds without coupons in denominations of $1,000 or any multiple thereof. At the principal office of the Trustee, in the manner and subject to the limitations and conditions provided in the Trust Agreement, registered bonds without coupons may be exchanged for an equal aggregate principal amount of coupon bonds of the same series and maturity, bearing interest at the same rate and having attached thereto coupons representing all unpaid interest due or to become due thereon, or of registered bonds without coupons of the same series and maturity, of authorized denominations and bearing interest at the same rate, and coupon bonds with all coupons appertaining thereto representing all unpaid interest due to become due thereon may in like manner be exchanged for an equal aggregate principal amount of registered bonds without coupons of the same series and maturity, of authorized denominations and bearing interest at the same rate.

Section 7. Each coupon shall bear interest from its date. Each registered bond without coupons shall bear interest from the interest payment date next preceding the date on which it is authenticated, unless authenticated upon an interest payment date, in which case it shall bear interest from such interest payment date, or, unless authenticated prior to the first interest payment date, in which case it shall bear interest from its date; provided,

however, that if at the time of authentication of any registered bond without coupons interest is in default, such bond shall bear interest from the date to which interest has been paid.

Section 8. The bonds shall be signed by the Chairman of the Authority, and the official seal of the Authority shall be affixed the bonds and attested by the Secretary and Treasurer of the Authority. The coupons attached to the coupon bonds shall be executed with the facsimile signature of the Chairman of the Authority. The coupon bonds and the interest coupons to be attached thereto and the provisions for registration to be endorsed thereon, the registered bonds without coupons, and the certificate of authentication by the trustee to be endorsed on all such bonds shall be, respectively, substantially in the form set forth in the Trust Agreement..

Section 9. Both the principal of and the interest on the bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts. The principal of coupon bonds (unless registered) and the interest on all coupon bonds shall be payable at the principal office of The *First (sic)* National Bank and Trust Company of Oklahoma City, of Oklahoma City, Oklahoma, or at the principal office of a bank or trust company in the City of Chicago, Illinois or at the principal office of a bank or trust company in the Borough of Manhattan, City and State of New York, at the option of the holder. The principal of all registered bonds without coupons and of all coupon bonds registered as to principal along shall be payable at the principal office of the Trustee, and payment of the interest on each registered bond without coupons shall be made by the Trustee on each interest payment date to the person appearing on the registration books of the Authority as the registered owner thereof, by check or draft mailed to such registered

owner at his address as it appears on such registration books. Payment of the principal of all bonds shall be made upon the presentation and surrender of such bonds as the same shall become due and payable. Payment of the interest on the coupon bonds shall be made upon the presentation and surrender of the coupons, if any, representing such interest as the same respectively become due and payable.

Section 10. Tolls shall be fixed, revised, charged and collected by the Authority for the use of the Southwestern Turnpike Project and also the Eastern Turnpike Project and any other Project financed under the provisions of the Trust Agreement, and shall be fixed and adjusted in accordance with the requirements of the Enabling Act and the Trust Agreement.

Section 11. In order to secure the payment of the principal of and the interest on the bonds herein authorized, including any redemption premium thereon, and any additional bonds that may be issued under the provisions of the Trust Agreement, according to their tenor, purport and effect, and in order to secure the performance and observance of all the covenants, agreements and conditions in said bonds, the execution and delivery of a trust agreement by and between the Authority and The First National Bank and Trust Company of Oklahoma City, as Trustee, is hereby authorized and said trust agreement (herein called the "Trust Agreement") shall be substantially in the form presented at this meeting, subject to such minor changes, variations, omissions and insertions as may be approved by the Chairman and the Secretary and Treasurer of the Authority and by said Trustee, and the execution of the Trust Agreement by the Chairman and by said Trustee and the attestation thereof by the Secretary and Treasurer of the Authority shall be conclusive evidence of any such proof. The Trust Agreement shall be executed in the manner therein set forth.

Section 12. The bonds of each series herein authorized, when sold in accordance with the provisions of the Enabli g Act, shall be executed in the form and manner hereinabove provided and shall be deposited with the Trustee for authentication and delivery in accordance with and subject to the provisions of Sections 208 and 209 of the Trust Agreement; provided, however, that the Trustee shall not authenticate and deliver the Eastern Project bonds unless the Southwestern Turnpike Project bonds shall be delivered and payment therefor made simultaneously with the authentication and delivery of the Eastern Turnpike Project bonds.

Section 13. The members, officers and employees of the Authority, the Consulting Engineers and the Traffic Engineers and the officers and agents of the Trustee are hereby authorized and directed to do all acts and things required of them by the provisions of the bonds and of the Trust Agreement for the full, punctual and complete performance of all the terms, covenants, provisions and agreements of the bonds and of the Trust Agreement, and also to do all acts and things required of them by the provisions of this Resolution.

Section 14. The First National Bank and Trust Company of Oklahoma City, in Oklahoma City, Oklahoma, be and hereby is appointed to act as Trustee under the Trust Agreement and said Trustee shall be entitled to such estates, powers, right, authorities, benefits, privileges, immunities and exemptions as are set forth in the Trust Agreement.

Section 15. The attorneys for the Authority are hereby authorized and directed to file an application with the Supreme Court of Oklahoma for the approval of the bonds authorized by this Resolution, and the Chairman of the Authority is hereby authorized and directed to sign such application for and in behalf of the Authority.

The foregoing Resolution was adopted, the vote herein being as follows:

Yeas: Hoover, Kilpatrick, Shepler, Smith, Woodliff, Millard

Nays: None

CERTIFICATE

I, the undersigned, duly appointed, qualified and acting Secretary and Treasurer of the Oklahoma Turnpike Authority, do hereby certify that the foregoing pages 1 to 16 inclusive, a true and correct copy of excerpt from the Minutes of the Oklahoma Turnpike Authority held at the office of the Governor, State Capitol Building, Oklahoma City, Oklahoma, on the 30 day of September, 1960.

Witness my Hand and Seal the 30 day of September, 1960.

/s/ Ned Shepler
Secretary-Treasurer

EXHIBIT M

[Excerpts from Trust Agreement]
(Proof of September 27, 1960)

THIS AGREEMENT, dated for convenience of reference as of the 1st day of July, 1960, by and between

OKLAHOMA TURNPIKE AUTHORITY

(hereinafter sometimes called the "Authority") a body corporate and politic and an instrumentality of the State of Oklahoma and

THE FIRST NATIONAL BANK AND TRUST COMPANY OF OKLAHOMA CITY,

* * * * * * *

Whereas by virtue of the provisions of Title 69, Sections 651 to 695, inclusive, Oklahoma Statutes Annotated, as amended (hereinafter sometimes called the "Enabling Act" or the "Act"), the Oklahoma Turnpike Authority was duly created a body corporate and politic and constituted an instrumentality of the State, and is authorized and empowered

(a) to construct, maintain, repair and operate the following turnpike projects (as defined in the Act), with their access and connecting roads, at such locations and on such routes as it shall determine to be feasible and economically sound:

that part in Oklahoma of a turnpike between a connection with the Turner Turnpike near the Oklahoma City Terminus and Wichita Falls, Texas, or any part of such turnpike (hereinafter sometimes called the "Southwestern Route"), and

a turnpike, or any part or parts thereof, beginning at the Oklahoma-Texas state boundary line, and extending north on a route lying east of the cities and towns of Wilson, Maysville, Norman

and Oklahoma City, and west of the eastern state line of Oklahoma to a connection or connections between the Turner Turnpike and the south side of the Arkansas River, in the most feasible and economical route (hereinafter sometimes called the "Eastern Route"),

(b) to issue turnpike revenue bonds of the Authority, payable solely from revenues, including the revenues accruing to the Trust Fund created by Sections 680 to 683, inclusive, of the Enabling Act, for the purpose of paying all or any part of the cost of any one or more turnpike projects.

* * * * * * *

WHEREAS, the Authority has determined the locations and routes of the Southwestern Turnpike and the Eastern Turnpike as follows:

the Southwestern Turnpike on a route beginning at the Oklahoma City terminus of the Turner Turnpike and extending south along Interstate Route I-35, being the Oklahoma City East By-Pass, to the Southeast 74th Street cloverleaf at the junction of said Interstate Route I-35 and the Oklahoma City South By-Pass, thence west along said South By-Pass to a junction with the Oklahoma City West By-Pass, thence south along said West By-Pass to the Newcastle Bridge across the South Canadian River, thence southwesterly along a route passing within two miles of the city limits of Chickasha to the junction of U. S. Route No. 62, U. S. Route No. 277, U. S. Route No. 281 and State Highway No. 49 north of Lawton, thence south across the Ft. Sill Military Reservation and the east side of Lawton to the junction of U. S. Route No. 277, U. S. Route No. 281 and State Highway No. 36 south of Lawton, thence south and southwesterly to the inter-

state bridge over the Red River northeast of Burkburnett, Texas, the total length of said route being 134.6 miles, and

the Eastern Turnpike on a route beginning at the cloverleaf intersection on the Tulsa 51st Street By-Pass approximately one-fourth mile east of present U. S. Route No. 169, the same being a connection with the Turner Turnpike on the south side of the Arkansas River, thence south and southeast to a point in the vicinity of the Okmulgee Municipal Airport, thence south to the Henryetta East By-Pass in the N½ of Section 18, T11N, R13E, in Okmulgee County, thence south along said Henryetta East By-Pass to the junction of Interstate Route 40 and the Henryetta East By-Pass southeast of Henryetta, thence south and southeast to a connection with U. S. Route No. 69 between McAlester and the U. S. Naval Ammunition Depot, thence to the Oklahoma-Texas state boundary line,

and has determined that such locations and routes are feasible and economically sound and such locations and routes have been approved by the Oklahoma Department of Highways (hereinafter sometimes called the "Highway Department"); and

* * * * * * *

WHEREAS, the Authority has determined to proceed at this time with the construction of the Southwestern Project and to proceed, as soon as the financing thereof can be arranged, with the construction of the Eastern Project, and to proceed with the construction of the remaining parts of the Eastern Turnpike when such construction shall be deemed economically feasible and necessary to provide adequate capacity for the flow of traffic over such part; and

[APPENDIX]

RIDER PAGE 5

WHEREAS, the Authority has determined that the locations and routes of the Southwestern Project and the Eastern Project are feasible and economically sound and such locations and routes have been approved by the Highway Department; and

* * * * * * *

WHEREAS, as authorized by the Enabling Act, the Authority has determined to provide for the issuance at this time of turnpike revenue bonds of the Authority for the purpose of paying the cost of the Southwestern Project and one-fourth (¼) of the cost of said bridge across the South Canadian River, and to provide for the issuance under the provisions of this Agreement of additional turnpike revenue bonds of the Authority for the purpose of paying the cost of the Eastern Project and all or any part of the cost of any remaining part of the Eastern Turnpike (the Southwestern Project and such part or parts of the Eastern Turnpike, if any, as shall be financed under the provisions of this Agreement being hereinafter sometimes collectively called the "Southern Turnpikes"); and

* * * * * * *

WHEREAS, the Authority has by resolution duly authorized the issuance of turnpike revenue bonds of the Authority in the aggregate principal amount of Fifty-nine Million Dollars ($59,000.00) for the purpose of paying the cost of the Southwestern Project and one-fourth (¼) of the cost of said bridge over the South Canadian River (hereinafter sometimes called "Southwestern Project bonds"), and in the aggregate principal amount of Thirty-one Million Dollars ($31,000,000) for the purpose of paying the cost of the Eastern Project (hereinafter sometimes called "Eastern Project bonds"), all such bonds to bear interest and to mature, subject to the right of prior redemption, all as hereinafter set forth (said bonds and all additional bonds at any time issued under this Agreement being hereinafter sometimes called the "bonds"); and

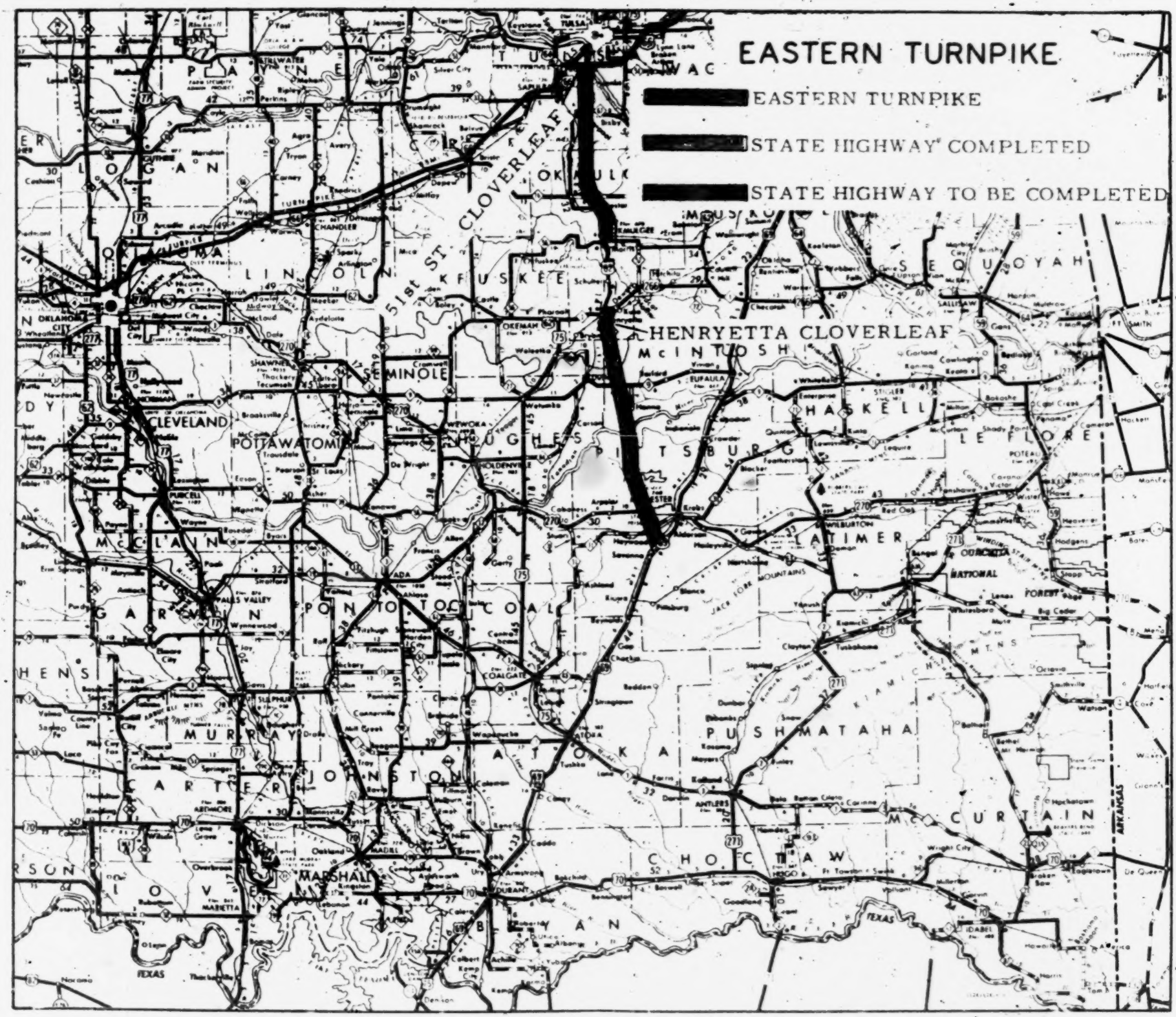
* * * * * * *

SECTION 503. A special fund is hereby created and designated "Oklahoma Southern Turnpikes Revenue Fund," (herein sometimes called the "Revenue Fund"). The Authority covenants that all tolls and other revenues derived from the operation or ownership of each Project will be collected by the Authority and deposited daily, so far as practicable, with the Trustee to the credit of the Revenue Fund, and that a statement giving the name or designation of the Project from which such revenues were derived will accompany each such deposit with the Trustee. All sums received by the Authority from any other source for paying any part of the cost of maintaining, repairing and operating any Project shall be forthwith deposited with the Trustee to the credit of the Revenue Fund.

* * * * * * *

SECTION 1307. The Authority hereby finds and determines that it would be economical and beneficial to combine into one unit and to consider the same as one project to the same extent and with like effect as if the same were a single project the Southwestern Project, the Eastern Project and any remaining part of the Eastern Turnpike for which bonds may be issued under the provisions of this Agreement and, as authorized by the Enabling Act, the same are hereby combined for financing purposes to the extent and with the effect set forth in this Agreement, including the establishment of a single sinking fund for the payment, purchase or redemption of all bonds issued under the provisions of this Agreement; provided, however, that nothing contained in this Agreement shall be construed as preventing the Authority from financing the Eastern Turnpike or any part thereof by the issuance of bonds which are not secured by the provisions of this Agreement and which are issued under the provisions of a separate trust agreement.

* * * * * * *


EASTERN TURNPIKE
EASTERN TURNPIKE
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HENRYETTA CLOVERLEAF
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CLEVELAND
POTTAWATOMIE
SEMINOLE
LINCOLN
LOGAN
PAYNE
OKLAHOMA
MCCLAIN
GARVIN
MURRAY
CARTER
JOHNSTON
MARSHALL
LOVE
HUGHES
PONTOTOC
COAL
ATOKA
PUSHMATAHA
MCCURTAIN
CHOCTAW
LATIMER
LE FLORE
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MCINTOSH
SEQUOYAH
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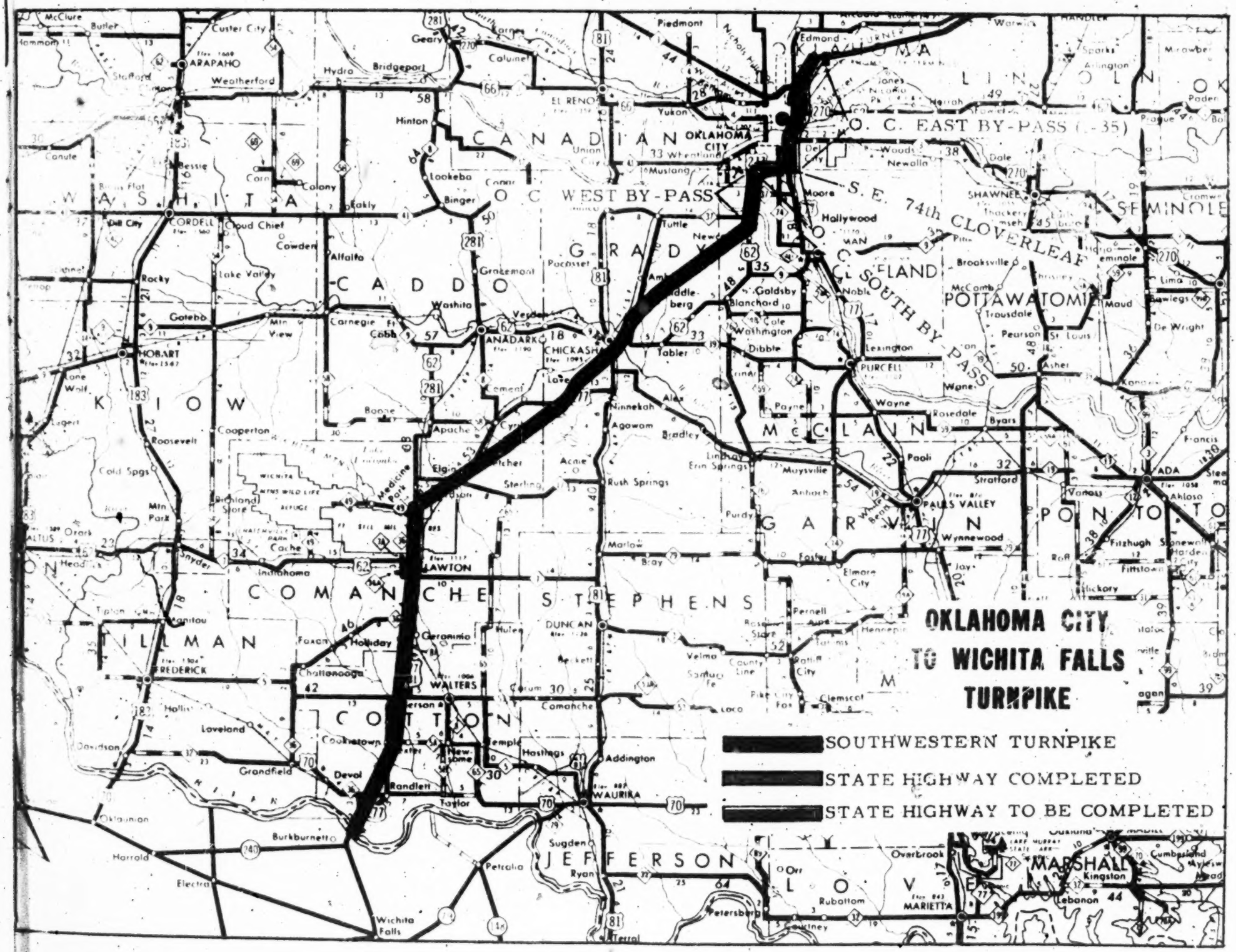
OKLAHOMA CITY
TO WICHITA FALLS
TURNPIKE
SOUTHWESTERN TURNPIKE
STATE HIGHWAY COMPLETED
STATE HIGHWAY TO BE COMPLETED
O. C. EAST BY-PASS (I-35)
O. C. WEST BY-PASS
O. C. SOUTH BY-PASS
S.E. 74th CLOVERLEAF
OKLAHOMA CITY
CANADIAN
GRADY
CADDO
KIOWA
WASHITA
COMANCHE
STEPHENS
GARVIN
MCCLAIN
POTTAWATOMIE
SEMINOLE
LINCOLN
OKLAHOMA
COTTON
JEFFERSON
LOVE
MARSHALL
TILLMAN
ARAPAHO
CORDELL
ANADARKO
CHICKASHA
LAWTON
DUNCAN
WALTERS
FREDERICK
HOBART
PAULS VALLEY
WAURIKA
MARIETTA
Piedmont
Edmond
Yukon
El Reno
Hinton
Weatherford
Custer City
Geary
Hydro
Bridgeport
Calumet
Mustang
Union City
Newalla
Shawnee
Tuttle
Hollywood
Moore
Norman
Goldsby
Blanchard
Cole
Washington
Dibble
Lexington
Purcell
Wayne
Rosedale
Byars
Paoli
Stratford
Wynnewood
Maysville
Rush Springs
Erin Springs
Lindsay
Bradley
Agawam
Ninnekah
Alex
Payne
Apache
Cyril
Boone
Lake Lawtonka
Cement
Fort Cobb
Carnegie
Gracemont
Pocasset
Alfalfa
Cloud Chief
Cowden
Colony
Eakly
Binger
Lookeba
Bessie
Corn
Canute
Burns Flat
Dill City
Rocky
Lake Valley
Gotebo
Mtn View
Lone Wolf
Lugert
Roosevelt
Cooperton
Cold Spgs
Mtn Park
Altus
Snyder
Navajo
Tipton
Vanitou
Hollis
Loveland
Davidson
Grandfield
Devol
Oklaunion
Harrold
Electra
Burkburnett
Wichita Falls
Petrolia
Sugden
Ryan
Terral
Addington
Hastings
Temple
New Home
Comanche
Corum
Velma
Pattie City
Pernell
Elmore City
Jay
Fittstown
Pontotoc
Ada
Vanoss
Francis
Byars
Overbrook
Rubottom
Courtney
Petersburg
Lebanon
Kingston
Cumberland
Madill
Marietta
Loco
Foxen
Holliday
Geronimo
Chattanooga
Cache
Medicine Park
Richland Store
Wichita Mtns Wildlife Refuge
Hazelwood Park
Elgin
Sterling
Acme
Marlow
Bray
Purdy
Anadarko
Lone Grove
Wilson
Ardmore
Fox
Ahloso
Fittstown
Stonewall
Hickory
Roff
Clemscot
Pike City
Fox
Santa Fe
County Line
Rose Store
Henrietta
Hulen
Hall
Ab
Sycamore
Ozark
Head
Indianola
Lone Grove
Wilson
Ardmore
Fox
Ahloso
Fittstown
Stonewall
Hickory
Roff
Clemscot
Pike City
Fox
Santa Fe
County Line
Rose Store
Henrietta
Hulen
Hall
Ab
Sycamore
Ozark
Head
Indianola